



THE STATE BAR OF CALIFORNIA

OFFICE OF PROFESSIONAL COMPETENCE,
PLANNING & DEVELOPMENT

180 HOWARD STREET, SAN FRANCISCO, CALIFORNIA 94105-1639

TELEPHONE: (415) 538-2161

DATE: November 7, 2006
TO: Members of the Commission for the Revision of the Rules of Professional Conduct
FROM: Lauren McCurdy
SUBJECT: Agenda Materials for Your Meeting in Los Angeles on Friday, December 1, 2006

Enclosed, please find the agenda materials for your December meeting to be held as follows. Please note, Kevin Mohr's October 7, 2006 public hearing notes and the full text of the written submissions for the public hearing are not redistributed in this mailing. Refer to the materials distributed with the assignment mailing and add them to your agenda materials for the meeting. An updated roster with Sean SeLegue's and Dominique Snyder's new contact information is also enclosed.

Friday, December 1, 2006
(9:00 am - 5:00 pm)

State Bar Offices – Los Angeles
1149 So. Hill Street
Los Angeles, CA 90015
(213) 765-1000

E-MAIL DEADLINES AND DISCUSSION OF ACTION ITEMS: For items IV.A and IV.B (carry-over items), only issues: (1) previously raised in preparation for the October meeting; or (2) in new supplemental materials that might be submitted by the codrafters will be considered. For all other agenda items, only issues posed in the agenda materials or in an e-mail message sent out no later than **Thursday, November 16, 2006**, will be considered at the meeting and, absent a language issue raised by the drafting team or in a timely email message, the language recommended by the drafting team may be deemed approved.

ATTENDANCE AND ON-TIME ARRIVAL: To ensure a quorum, if you are unable to attend in-person or if you are running late, please contact staff to report your status and to facilitate potential arrangements to participate by telephone.

REMINDERS FROM THE CHAIR

1. The lead drafter is responsible for getting the assignment to staff in time for the agenda distribution. If that person cannot timely complete the assignment, he or she must get a substitute who will complete the assignment on time and advise staff and the chair of this substitution.
2. If a person has not sent comments on an agenda item by e-mail prior to the meeting, he or she may, at the Chair's discretion, only get one opportunity to comment on that agenda item. Anyone sending e-mail comments on an agenda item should send copies to all Commission members, staff and our consultant. Please note: all e-mails exchanged will be made part of the open session agenda materials; and, members who send e-mails will not be bound by the positions taken therein as the deliberative process at the meeting will not be constrained or prejudiced by the exchange of e-mails.
3. In order to ensure that there is a quorum and adequate participation, if you are unable to attend in-person, please contact staff to make arrangements to attend by video-conference from the alternate Bar site, or by telephone. As always, notify staff if you are unable to attend a meeting under any circumstances.

/lmm
enclosures
c: Marie Moffat

STATE BAR OF CALIFORNIA
COMMISSION FOR THE REVISION OF THE RULES
OF PROFESSIONAL CONDUCT

OPEN SESSION AGENDA

Friday, December 1, 2006
(9:15 am - 5:00 pm)

LA–State Bar Office
1149 South Hill Street, Room 723
Los Angeles, CA 90015
(213) 765-1000

NOTE RE MEETING SITE: Members of the public who wish to attend this meeting are asked to call Audrey Hollins at 415-538-2167.

*[Chair's note re **E-Mail Deadlines** and discussion of action items: For items **IV.A and IV.B** (carry-over items), only issues: (1) previously raised in preparation for the October meeting; or (2) in new supplemental materials that might be submitted by the codrafters will be considered. For **all other agenda items**, only issues posed in the agenda materials or in an e-mail message sent out no later than **Thursday, November 16, 2006**, will be considered at the meeting and, absent a language issue raised by the drafting team or in a timely email message, the language recommended by the drafting team may be deemed approved.]*

I. APPROVAL OF OPEN SESSION ACTION SUMMARIES FROM THE SEPTEMBER 1, 2006 AND OCTOBER 6, 2006 MEETINGS

(Draft action summary for the September 1, 2006 enclosed. Draft action summary for the October 6, 2006 meeting to be circulated prior to the December meeting.) **[pages 1 – 10]**

II. REMARKS OF CHAIR

A. Chair's Report

(The Chair will provide an oral report on administrative, procedural, or other informational matters.)

B. Staff's Report

(Staff will report on the activities of COPRAC and the Board of Governors.)

1. Consideration of 2006 Accomplishments Report
(Materials enclosed separately.)
2. Consideration of 2008 Work-Plan
(Materials to be circulated prior to meeting.)

III. **MATTERS FOR ACTION - CONSIDERATION OF PROPOSED RULES DISTRIBUTED FOR PUBLIC COMMENT** (Name with asterisk is lead drafter, underline indicates a newly added co-drafter. A matter designated as a "Consent Item" will be deemed approved for submission to the Supreme Court unless there (1) is a unanimous recommendation by the codrafters to reconsider the rule or (2) are at least 6 written objections from Commission members received by ***Thursday, November 16, 2006.***)

*Voogd
Tuft
Ruvolo

- A. **CONSENT ITEM:** Proposed Rule 3.1 [Rule 3-200]. Meritorious Claims and Contentions
(Materials enclosed.) ***[pages 11 – 40]***

*Foy,
Sapiro

- B. **CONSENT ITEM:** Proposed Rule 8.1 [Rule 1-200]. False Statement Regarding Admission to the State Bar
(Materials enclosed.) ***[pages 41 – 66]***

*Lamport
Voogd

- C. **CONSENT ITEM:** Proposed Rule 8.1.1 [Rule 1-110]. Disciplinary Authority of the State Bar
(Materials enclosed.) ***[pages 67 – 88]***

*Vapnek
Kehr
Martinez

- D. **Proposed Rule 1.8.8 [Rule 3-400] Limiting Liability to Client**
[anticipated ½ hour discussion]
(Materials enclosed.) ***[pages 89 – 120]***

*Ruvolo
Foy
Julien

- E. **Proposed Rule 1.8.10 [Rule 3-120]. Sexual Relations With Client**
[anticipated ½ hour discussion]
(Materials enclosed.) ***[pages 121 – 154]***

*Tuft
Ruvolo
Snyder
Vapnek
Mohr

- F. **Proposed Rule 5.1 [Rule 1-310X]. Responsibilities of Partners, Managers, and Supervisory Lawyers**
[anticipated 1 hour discussion]
(Materials enclosed. Additional materials from codrafters to be distributed prior to meeting.) ***[pages 155 – 214]***

*Tuft
Ruvolo
Snyder
Vapnek
Mohr

- G. Proposed Rule 5.2 [Rule 1-310X]. Responsibilities of Subordinate Lawyer**
[anticipated 1 hour discussion]
(Materials enclosed. Additional materials from codrafters to be distributed prior to meeting.) **[pages 215 – 254]**

*Tuft
Martinez
Peck
Snyder

- H. Proposed Rule 5.3 [Rule 1-300]. Nonlawyer Assistants**
[anticipated ½ hour discussion]
(Materials enclosed.) **[pages 255 – 302]**

IV. MATTERS FOR ACTION (Name with asterisk is lead drafter, underline indicates a newly added co-drafter.)

*Mohr,
Julien
Peck,
Selegue,
Tuft

- A. Consideration of Rule 3-100 [ABA MR 1.6 & 1.8(b)] Confidential Information of a Client**
[anticipated ½ hour discussion]
(Matter carried over. Previously circulated materials enclosed.)
[pages 303 – 324]

*Voogd,
Julien,
Kehr

- B. Consideration of Rule 4-210 [ABA MR 1.8(e)] Payment of Personal or Business Expenses Incurred by or for a Client**
[anticipated ½ hour discussion]
(Matter carried over. Previously circulated materials enclosed.)
[pages 325 – 328]

*Foy
Julien
Peck

- C. Report on the Board Referral of Trust and Estates Section Legislative Proposal 2005-02 (re Impaired Clients) [ABA MR 1.14].**
[anticipated ½ hour discussion]
(Materials enclosed.) **[pages 329 – 342]**

*Lamport
Tuft
Voogd

- D. Consideration of Rule 1.8.1 [Rule 3-300]. Avoiding Interests Adverse to a Client**
[anticipated ½ hour discussion]
(Materials enclosed. Revised materials from codrafters to be circulated the week of November 13th.) **[pages 343 – 358]**

*Martinez/Tuft
Kehr
Sapiro
Voogd

- E. Consideration of Rule 2-100 [ABA MR 4.2] Communication With a Represented Party**
[anticipated 1 hour discussion]
(This item is specially set to be called at 11:00 am. Materials enclosed.)
[pages 359 – 408]

*Lamport
Foy
Melchior
Mohr
Voogd

- F. Consideration of Rule 3-600 [ABA MR 1.13] (Organization as Client)**
[anticipated ½ hour discussion]
(Materials enclosed.) **[pages 409 – 438]**

*Vapnek,
Ruvolo,
Voogd,

- G. Consideration of Rule 4-200 [ABA MR 1.5] Fees for Legal Services**
[anticipated ½ hour discussion]
(Materials enclosed.) **[pages 439 – 456]**